Opinion of Superior Court, Appellate Division

SUPERIOR COURT OF NEW JERSEY

APPELLATE DIVISION

A-463-65

IRMA GROSSMAN and DAVID GROSSMAN,

Plaintiffs-Appellants,

vs.

JEANETTE STUBBS and HAROLD RUGG,

Defendants-Respondents.

Argued September 26, 1966—Decided September 29, 1966.

Before Judges Goldmann, Kilkenny and Collester.

On appeal from the Bergen County Court.

Mrs. Irma Grossman argued the cause *pro se* for appellants.

Respondent did not file a brief.

PER CURIAM

Plaintiffs appeal from an order directing defendant Jeanette Stubbs to pay the sum of $6,000, without interest, to the clerk of the court and, upon his receiving same, directing him to enter on the record satisfaction of a final judgment entered on January 23, 1963 in favor of plaintiffs.

Opinion of Superior Court, Appellate Division

The judgment in question, awarding Mrs. Grossman $8,000 and her husband $2,000, was entered after a retrial of their negligence action. After dismissing their attorney, Morris F. Pearlman, they unsuccessfully sought review of the award in this court, our Supreme Court, and the U. S. Supreme Court. Plaintiffs then applied to us for a rehearing, which we denied. Meanwhile, Pearlman applied for and obtained an order fixing his lien for services in the two trials of the action. That order, fixing a fee of $4,116.66, was entered March 11, 1963. It expressly recites that the court had spent much time in considering the reasonable value of Pearlman's services and in discussing this with plaintiffs, and that "both plaintiffs having agreed thereto and having consented thereto in open court," he found the reasonable value to be $4,116.66.

Plaintiffs then brought a suit in the County Court against Pearlman and two others. Pearlman applied for and, on November 13, 1964, obtained an order directing defendants' insurance company to pay his fee. This was done and a partial warrant of satisfaction filed. Plaintiffs unsuccessfully sought a review of that order here and in our Supreme Court.

Plaintiffs next applied to the County Court for an order dismissing the Pearlman lien, and defendants countered for an order granting leave to have the unpaid balance of the $10,000 judgment paid into court. Plaintiffs' motion was denied and the order here under appeal entered.

The appeal should be dismissed out of hand because plaintiffs filed no appendix, as required by *R.R.* 1:2-8(e) and 1:7-1(f). However, considering the matter on the merits, what plaintiffs seek to accomplish here is a review of the order fixing the amount of the lien and the subse-

quent order directing that it be paid. This comes far out of time.

As for the order directly under appeal, there was nothing for the trial court to do but to allow the balance of the judgment to be paid into court.

Appeal dismissed.

Denial of Petition for Certification
Grossman* v. *Stubbs

SUPREME COURT OF NEW JERSEY

C-79 September Term 1966

On Petition for Certification Order Denying Petition

IRMA GROSSMAN, *et al.*,

Plaintiffs-Petitioners,

VS.

JEANETTE STUBBS, *et al.*,

Defendants-Respondents.

To Appellate Division, Superior Court:

A petition for certification having been submitted to this Court, and the Court having considered the same,

It is hereupon Ordered that the petition for certification is denied with costs.

WITNESS the Honorable Joseph Weintraub, Chief Justice, at Trenton on the 29th day of November, 1966.

MORTIMER G. NEWMAN JR.
Clerk of the Supreme Court

FILED
Nov 29 1966
JOHN H. GILDEA
Clerk

A TRUE COPY
JOHN H. GILDEA
Clerk

Denial of Petition for Certification
Grossman* v. *Pearlman

SUPREME COURT OF NEW JERSEY

C-78 September Term 1966

On Petition for Certification Order Denying Petition

IRMA GROSSMAN, *et al.*,

Plaintiffs-Appellants,

vs.

BERNARD PEARLMAN, *et al.*,

Defendants-Respondents.

To Appellate Division, Superior Court:

A petition for certification having been submitted to this Court, and the Court having considered the same,

It is hereupon Ordered that the petition for certification is denied with costs.

WITNESS the Honorable Joseph Weintraub, Chief Justice, at Trenton on the 29th day of November, 1966.

MORTIMER G. NEWMAN JR.
Clerk of the Supreme Court

FILED
Nov 29 1966
JOHN H. GILDEA
Clerk

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JOHN H. GILDEA
Clerk

Denial of Rehearing
Grossman v. *Stubbs* (Lien of November 13, 1964)

SUPREME COURT OF NEW JERSEY

M-175 September Term 1966

On Petition for Rehearing

IRMA GROSSMAN,

Plaintiff-Petitioner,

vs.

JEANNETTE STUBBS,

Defendant-Respondent.

This matter having been duly presented to the Court, it is Ordered that the petition for rehearing is denied.

Witness, the Honorable Joseph Weintraub, Chief Justice, at Trenton, this 17th day of January, 1967.

FILED
Jan 17 1967
JOHN H. GILDEA
Clerk

A TRUE COPY
JOHN H. GILDEA
Clerk

Denial of Rehearing
Grossman* v. *Pearlman

SUPREME COURT OF NEW JERSEY

C-78 September Term 1966

On Petition for Certification Order Denying Petition

IRMA GROSSMAN, *et al.*,

Plaintiffs-Appellants,

vs.

BERNARD PEARLMAN, *et al.*,

Defendants-Respondents.

To Appellate Division, Superior Court:

A petition for certification having been submitted to this Court, and the Court having considered the same,

It is hereupon Ordered that the petition for certification is denied with costs.

WITNESS the Honorable Joseph Weintraub, Chief Justice, at Trenton on the 29th day of November, 1966.

MORTIMER G. NEWMAN JR.
Clerk of the Supreme Court

FILED
Nov 29 1966
JOHN H. GILDEA
Clerk

A TRUE COPY
JOHN H. GILDEA
Clerk

Order of Payment of Lien

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION—HUDSON COUNTY

Docket No. L-13822-63

Civil Action

IRMA GROSSMAN and DAVID GROSSMAN,

Plaintiffs,

—VS.—

BERNARD PEARLMAN, ALAN KRUMHOLZ and MORRIS F. PEARLMAN,

Defendants.

Order

This matter being opened to the Court by Morris F. Pearlman, Esq., on application and on Order to Show Cause made by this Court on August 27, 1964, as to why the plaintiffs and Marley, Winkelried & Hillis, Esqs., attorneys for Jeanette Stubbs and for Allstate Insurance Company, should not be ordered and directed to pay to the said Morris F. Pearlman, Esq. his fees for legal services, interest, and taxed costs rendered in the matter of Irma Grossman, et al, as plaintiffs, against Jeanette Stubbs, et als, as defendants, bearing the caption "Bergen County Court, Law Division, Docket No. 61-646B", which order was returnable before this Court on September 18, 1964; and,

The hearing on said Order to Show Cause was further continued by order of the Court dated September 18, 1964,

to October 30, 1964, to enable the plaintiffs to exhaust their legal remedies on appeal to the Supreme Court of New Jersey and to the United States Supreme Court; and,

It now appearing to the Court by proof submitted from the Clerk of the Supreme Court of New Jersey, and by the Clerk of the United States Supreme Court, that Irma Grossman and David Grossman have exhausted all remedies against the defendant, Morris F. Pearlman, Esq., and against Jeanette Stubbs and Harold Rugg; and,

That the New Jersey Supreme Court has denied the Petition for Certification filed by the plaintiffs in the matters of Grossman, et als vs. Pearlman, et als and in Grossman, et al vs. Stubbs, et al; and,

That the Petition for Writ of Certiorari filed in the United States Supreme Court was denied by this Honorable Court on October 12, 1964; and,

That the plaintiffs have now exhausted all of their legal remedies in the State of New Jersey and on appeal to the United States Supreme Court; and,

The Court having heard the arguments of counsel and being satisfied that the aforesaid Morris F. Pearlman, Esq. is now entitled to be compensated for his legal services;

It is, on this 13th day of November, 1964, ORDERED, that the plaintiffs, Irma Grossman and David T. Grossman, and/or the defendant, Jeanette Stubbs and Allstate Insurance Company, the carrier for Jeanette Stubbs, to pay to Morris F. Pearlman, Esq. forthwith the sum of $4,116.66 which is the amount due to him for legal services and expenses incurred by him in the matter of Irma Grossman, et als vs. Jeanette Stubbs, et als, Docket No. 61-646B, of the Bergen County Court, Law Division, which was the

amount fixed by the Honorable Joseph W. Marini, Judge of the County Court of Bergen County, by order dated March 11, 1963; and,

The amount due for said legal services having been consented to in open court by the plaintiffs, Irma Grossman and David T. Grossman, as appears in the Order of March 11, 1963; and,

That interest be added to said sum of $4,116.66 from March 11, 1963, at the rate of 6% per annum, which amounts to $399.75, and taxed costs amounting to $84.75, or a total of $4,601.16; and,

That upon payment of said sum of $4,601.16 to the said Morris F. Pearlman, Esq., that all of the parties herein named shall be discharged from any further obligation to pay for any other legal services, costs, or other expenses that may be due to him; and,

It is FURTHER ORDERED, that a copy of this Order be served upon Irma Grossman and David T. Grossman, and upon Marley, Winkelried & Hillis, Esqs., attorneys for Jeanette Stubbs and for Allstate Insurance Company, by certified mail, within (5) days from the date hereof.

J.S.C.

Denial of Petition

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

Washington, D. C. 20543

December 7, 1964

RE: *Grossman, et al.* v. *Stubbs, et al.*,
No. 385, Oct. Term, 1964

Dear Madam:

The Court today denied the petition for rehearing in the above-entitled case.

Very truly yours,

JOHN F. DAVIS, *Clerk*

By /s/ C. T. LYDDAM
Assistant

Mrs. Irma Grossman
287 Avenue C
New York, N. Y.

Affidavit of Service by Mail

SUPREME COURT OF THE UNITED STATES

October Term, 1964

DAVID GROSSMAN, *et al.*,

Petitioner,

vs.

JEANETTE STUBBS and HAROLD RUGG,

Respondents.

STATE OF NEW YORK,
COUNTY OF NEW YORK, *ss.*:

GEORGE SHIFRIN, being duly sworn, deposes and says:

I am over the age of twenty-one years and reside at 5700 Arlington Avenue, in the Borough of Bronx, City of New York. On the 29th day of December, 1964, at 4:00 o'clock PM, I served 3 copies of the Writ of Certiorari in the above-entitled action on: Marley, Winkelreed & Hillis, 570 Broad Street, Newark, New Jersey, the attorneys for the Respondents in the said action, by depositing said copies, securely wrapped, properly addressed, and postage fully prepaid, in a post office box regularly maintained by the U. S. Government in the post office at 90 Church Street, in the Borough of Manhattan, City of New York.

GEORGE SHIFRIN

(Sworn to on December 29, 1964.)

Letter Returning Defendant's Brief on Rehearing

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES
Washington, D. C. 20543

December 1, 1964

Mrs. Irma Grossman
287 Avenue C
New York, New York

Re: *Grossman, et al.* v. *Stubbs, et al.*
No. 385, October Term, 1964

Dear Mrs. Grossman:

The reply brief in opposition to your petition for rehearing which was received in this office was returned to counsel for the respondents in accord with Rule 58, paragraph 3, which states that such replies will not be received.

Very truly yours,

JOHN F. DAVIS, *Clerk*

By /s/ EDWARD C. SCHADE
E. C. Schade
Assistant

ECS:mk